IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 7631 of 2004(H)

PETITIONER:

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1. SIVAPRASAD B, S/O.LATE K.BHASKARAN NAIR, LAKSHMI FINANCE, AMBALATHARA, POONTHURA P.O. THIRUVANANTHAPURAM.

2. SASIDHARAN NAIR B, S/O.LATE K.BHASKARAN NAIR, PUTHENKAVU VEEDU, AMBALATHARA THIRUVANANTHAPURAM.

3. GIRIDHARAN NAIR B, S/O.LATE K.BHASKARAN NAIR, PUTHENKAVU VEEDU, AMBALATHARA, THIRUVANANTHAPURAM.

4. SAKTHIDHARAN NAIR B, S/O.LATE K.BHASKARAN NAIR, PUTHENKAVU VEEDU, AMBALATHARA, THIRUVANANTHAPURAM.

5. RAJENDRA BABU B, S/O.LATE K.BHASKARAN NAIR, PUTHENKAVU VEEDU, AMBALATHARA, THIRUVANANTHAPURAM.

6. SANTHOSH KUMAR,B. S/O.LATE K.BHASKARAN NAIR, PUTHENKAVU VEEDU, AMBALATHARA, THIRUVANANTHAPURAM.

7. SASIKALA.B. D/O.LATE K.BHASKARAN NAIR, PUTHENKAV VEEDU, AMABALATHARA, THIRUVANANTHAPURAM.

BY ADV. DR.K.P.KYLASANATHA PILLAY
SRI.ARUN.B.VARGHESE
SRI.T.P.DEYANANTHAN
SMT.SREEDEVI KYLASANATH

RESPONDENTS: RESPONDENTS.

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1. THE DHARAN CONTRACT AND ENGINEERING WORKS PRIVATE LIMITED, INDUSTRIAL ESTATE, PAPPANAMCODE, THIRUVANANTHAPURAM.

2. D.CHELLAMMA, W/O.LATE K.BHASKARAN NAIR,
DRIECTOR, M/S.DHARAN CONTRACT AND ENGINEERING
WORKS PVT.LTD., INDUSTRIAL ESTATE,
PAPPANAMCODE, THIRUVANANTHAPURAM.

3. STATE OF KERALA, REP. BY THE SECRETARY
TO GOVERNMENT INDUSTRIAL DEPARTMENT,
GOVERNENT SECRETARIAT, THIRUVANANTHAPURAM.

BY SMT.SMITHA, GOVERNMENT PLEADER
SRI.M.A.MANU, SC, SIDCO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 7631/2004

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ORDER NO.IE(1)34/66 DATED 14/03/1975 ISSUED BY 4TH RESPONDENT.

P2 : COPY OF THE LETTER DATED 12/06/1975 ADDRESSED TO THE 1ST RESPONDENT.

P3 : COPY OF THE NOTICE NO.IE(11) PPD/13128/83 DATED 19/03/2002 OF THE 4TH RESPONDENT ISSUED TO 1ST PETITIONER.

P4 : COPY OF THE REPLY DATED 02/04/2002 SUBMITTED BY 1ST PETITIONER TO P3 NOTICE SUBMITTED BEFORE 4TH RESPONDENT.

P5 : COPY OF LETTER NO.EVC/274/53/2002 DATED 29/08/2002 OF 4TH RESPONDENT SHOWING THE SCHEDULE OF ARTICLES KEPT IN SHED NO.29 & 31.

P6 : COPY OF LETTER NO.IE(1)PPD/13128/83 DATED 28/12/2002 OF 4TH RESPONDENT.

P7 : COPY OF REPRESENTATION DATED 22/01/2003 SUBMITTED JOINTLY BY THE PETITIONERS TO 4TH RESPONDENT.

P8 : COPY OF THE REVENUE RECOVERY NOTICE DATED 30/01/2004 ISSUED AGAINST THE PETITIONERS.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 7631 of 2004

Dated, this the 11th day of December, 2007

J U D G M E N T

Petitioners are challenging recovery proceedings initiated against their late father, who was in arrears of rent due to 4th respondent. Since liability appears to be is that of a company under the management of the father of the petitioners, no personal recovery is permissible against the petitioners, if they are not guarantors. Recovery has to be made against the properties of the deceased, if he has personal liability. This writ petition is, accordingly, disposed of directing 5th respondent to proceed for recovery against the defaulter and his assets. No recovery should be made against the personal assets of the petitioners. However, if petitioners are holding the assets of the defaulter, recovery can be proceeded against such assets.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg